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Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Mackay, et al.
Application No. 09/978,504
Filed: October 16, 2001
Attorney Docket No. 9419.00
Title: 9419.00

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 28, 2002 (Certificate of Mailing dated March 19, 2002).

The petition under 37 CFR 1.47(a) is GRANTED.

The above-identified application was filed on October 16, 2001. On November 20, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Accompanying the petition were, *inter alia*,: (1) a declaration executed by co-inventor Richard Cudd, with the signature block for co-inventor Robin Mackay left blank; and (2) a declaration of attorney Michael Chan, detailing the transmittal of the application papers to Mackay and attesting that an executed declaration from only Cudd has been received.

The declaration filed March 28, 2002 and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As authorized, Deposit Account No. 14-0225 has been charged the \$400 fee for the two month extension of time, the \$130 petition fee, and the \$130 surcharge for late filing of the declaration.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Beverly M. Flanagan
Supervisory Petitions Examiner
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Office of the Deputy Commissioner
for Patent Examination Policy